



STATE OF WASHINGTON  
PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm 206, PO Box 40908 \* Olympia, Washington 98504-0908 \* (360) 753-1111 \* Fax (360) 753-1112  
Toll Free 1-877-601-2828 \* E-mail: [pdc@pdc.wa.gov](mailto:pdc@pdc.wa.gov) \* Website: [www.pdc.wa.gov](http://www.pdc.wa.gov)

**BY ELECTRONIC AND US MAIL**

May 12, 2004

WASHINGTON STATE REPUBLICAN PARTY  
PETER ABBARNO EXECUTIVE DIRECTOR  
16400 SOUTHCENTER PARKWAY STE 200  
SEATTLE WA 98188

Subject: (1) Complaint filed against People for Chris Gregoire for Governor Campaign  
and its treasurer, Phil Lloyd – PDC Case No. 04-400; and  
(2) Complaint filed against EMILY's List – PDC Case No. 04-401

Dear Mr. Abbarno:

The Public Disclosure Commission staff has completed its investigation of your complaint received on January 12, 2004, alleging that People for Chris Gregoire for Governor Campaign (Gregoire Campaign) and its treasurer, Phil Lloyd, have violated:

- (1) RCW 42.17.730 by assisting and paying EMILY's List to act as an intermediary or agent for the solicitation and transmittal of contributions to the Gregoire Campaign;
- (2) RCW 42.17.670 by failing to report contributions earmarked for the Gregoire campaign as contributions from EMILY's List in addition to contributions from the individual donors; and
- (3) RCW 42.17.640 by accepting contributions from EMILY's List in excess of the allowable contribution limits.

In addition, the complaint alleged that officials of EMILY's List violated:

- (1) RCW 42.17.730 by acting as in intermediary or agent for the solicitation and transmittal of contributions to the Gregoire campaign;
- (2) RCW 42.17.135 by failing to report contributions it received at its Washington D.C. headquarters that were earmarked for the Gregoire campaign; and
- (3) RCW 42.17.640 by making contributions to the Gregoire campaign in excess of the allowable contribution limits.



The PDC staff reviewed your allegations in light of the following statutes and administrative rules: RCW 42.17.020(14)(b)(v); 42.17.020(25)(a); 42.17.135; 42.17.640(1); 42.17.670; 42.17.730; and WAC 390-16-240. The statutory and rule references are enclosed.

Transmitting Contributions, RCW 42.17.730:

You alleged that EMILY's List violated RCW 42.17.730 by acting as in intermediary or agent when it solicited and transmitted campaign contributions to the Gregoire campaign. Specifically, you state that EMILY's List is a political committee and is, therefore, prohibited from collecting contributions from third parties for the purpose of transmitting them to a candidate or committee. In addition, you alleged that the Gregoire Campaign, and its treasurer, Phil Lloyd, violated RCW 42.17.730 by assisting and paying EMILY's List to act as an intermediary or agent for the solicitation and transmittal of contributions to the Gregoire Campaign.

We found that:

- On July 22, 2003, Christine Gregoire filed a candidate registration form (PDC form C-1) for election to the office of Governor for the State of Washington in the 2004 election. From July to December 2003, the Gregoire Campaign received \$1,451,673 in contributions and made \$300,228 in expenditures, of which \$22,597 was paid to EMILY's List for the cost of renting the lists used for solicitations, producing and sending fundraising solicitations, and \$2,156 was paid to Sheads & Associates, Ltd., (Sheads & Associates) for mail processing services.
- Phil Lloyd, treasurer for the Gregoire Campaign, provided a table detailing that 3,567 contributors donated \$271,949 to the Gregoire campaign as a result of the EMILY's List solicitations.
- On, September 5, 2003, EMILY's List sent a packet to 49,965 recipients containing a cover letter from Ellen Malcolm, president of EMILY's List, candidate specific information pertaining to six federal and state candidates, including the Gregoire Campaign, with a return envelope to be remitted to EMILY's List, PO Box 96612, Washington D.C., 20077-7261, and a contribution card, where readers were encouraged to make contributions to the candidates advertised, by separate check. On November 7, 2003, EMILY's List sent materials similar to the September fundraising mailer to 55,543 recipients, advertising, in part, the Gregoire Campaign. Again, contributors were asked to make contributions by separate check, and to send them to EMILY's List, P.O. Box 96612, Washington DC, 20077-7261.
- In addition, the following e-mail solicitations were sent by EMILY's List for contributions to the Gregoire Campaign: (1) September 3, 2003 to 17,377 recipients; (2) October 9, 2003 to 17,900 recipients; (3) November 6, 2003 to 21,249 recipients; and (4) December 4, 2003 to 21,270 recipients.
- Mr. Lloyd confirmed that EMILY's List referred the Gregoire campaign to a mailing and caging firm, Sheads & Associates, to perform processing, collecting and

forwarding services for the Gregoire Campaign with respect to the contributions received at the EMILY's List post office box in Washington D.C. Mr. Lloyd said this was done specifically to comply with Washington State law. The Gregoire Campaign signed a contract with Sheads & Associates on August 26, 2003, which stated that Sheads & Associates was responsible for batching the Gregoire Campaign's contribution checks, and for forwarding the checks by Federal Express to the campaign, at the Gregoire Campaign's expense.

- Pat Reed, Vice President of Sheads & Associates, stated in a letter dated February 9, 2004, that both the Gregoire Campaign and EMILY's List contracted with Sheads & Associates to process contribution checks received at the EMILY's List post office box. Ms. Reed stated that Sheads & Associates applied for the post office box on behalf of EMILY's List, although EMILY's List is the legal box holder. Ms. Reed stated that only bonded employees of Sheads & Associates are authorized by EMILY's List to collect mail at the post office box in question, and that at no time did EMILY's List employees or officials appear on the access list, nor did they access, process or handle the mail received in the post office box. On March 29, 2004, EMILY's List confirmed Ms. Reed's statements that Sheads processes ***"all mail received at post office box 96612..."***
- Joseph Solmonese, Chief of Staff for EMILY's List, stated that the Gregoire Campaign paid a \$100 administrative fee in connection with payments made for the September 5, 2003, fundraising letter, which included a payment of \$34.88 for the campaign's pro-rata share of renting use of the EMILY's List post office box.
- Susan Finkle, a compliance coordinator for EMILY's List, stated that EMILY's List did not collect or forward any campaign contributions, Internet contributions or otherwise, to the Gregoire Campaign. Concerning Internet contributions, Ms. Finkle stated that EMILY's List charged the Gregoire Campaign for a hyperlink from EMILY's List to the Gregoire Campaign site that allowed donors to directly access the [www.gregoire2004.com](http://www.gregoire2004.com) site to make credit card contributions.

The Gregoire Campaign contracted with Sheads & Associates to process contribution checks received at the EMILY's List post office box, and paid rent for the post office box. At no time did EMILY's List employees or officials access or collect mail received at the EMILY's List post office box. Thus, there is no evidence that EMILY's List transmitted contributions to the Gregoire Campaign. The Gregoire Campaign, through its vendor, Sheads & Associates, collected and forwarded its own contributions received at the EMILY's List post office box. In addition, through a hyperlink between the EMILY's List web site and the Gregoire Campaign web site, visitors who wanted to make a credit card donation made contributions directly to the Gregoire Campaign by entering the [www.gregoire2004.com](http://www.gregoire2004.com) site.

Chapter 42.17 RCW does not prohibit a campaign from retaining the services of a vendor to receive and forward contributions to it, even if that vendor performs similar services for the solicitor of those contributions. By paying for the mailers, and by hiring Sheads & Associates to forward mail from the EMILY's List post office box to the Gregoire

Campaign, the Gregoire campaign in fact, collected its own contributions. Thus, EMILY's List did not act as an intermediary for contributions to the Gregoire Campaign. Since the evidence does not support a section .730 violation by EMILY's List, by necessary implication, the Gregoire campaign did not assist EMILY's List in a manner that violated section .730 as you alleged.

Earmarked Contributions, RCW 42.17.670:

You alleged that the Gregoire Campaign and its treasurer, Phil Lloyd, violated RCW 42.17.670 by failing to report contributions earmarked for the Gregoire campaign as contributions from EMILY's List in addition to reporting them as contributions from the individual donors. You also alleged that EMILY's List violated RCW 42.17.135 by failing to report contributions it received at its Washington D.C. headquarters that were earmarked for the Gregoire campaign.

We found that:

- Earmarked funds are funds collected and spent by the recipient of those funds on behalf of a candidate. There was no evidence found that EMILY's List collected and spent funds on behalf of the Gregoire campaign.
- Mr. Lloyd provided a sworn statement explaining that all contributions received by the Gregoire campaign as a result of EMILY's List fundraising mailers were made by the contributor directly to the Gregoire Campaign.
- Mr. Lloyd stated that he believes the majority of the credit card contributions received through the Gregoire Campaign web site were received as a result of the EMILY's List solicitations.
- Ms. Finkle, of EMILY's List, stated in an interview that EMILY's List did not collect or forward any campaign contributions, Internet contributions or otherwise, to the Gregoire Campaign. The EMILY's List's web site provided a hyperlink from its site to the [www.gregoire2004.com](http://www.gregoire2004.com) site for donors to make credit card contributions directly to the Gregoire campaign.

Donors made contributions directly to the Gregoire Campaign, and at no time did EMILY's List receive and spend contributions on behalf of the Gregoire Campaign. Because there were no earmarked contributions, there were no statutory reporting obligations associated with earmarking.

Exceeding Primary Election Contribution Limits, RCW 42.17.640:

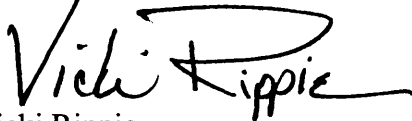
You alleged that the Gregoire Campaign and its treasurer, Phil Lloyd, violated RCW 42.17.640 by accepting primary election campaign contributions in excess of \$1,250. In addition, you alleged that officials of EMILY's List violated RCW 42.17.640 by making contributions that exceeded allowable limits. Your allegations that contribution limits were exceeded by the Gregoire campaign and EMILY's List appear to be premised on

your belief that EMILY's List received contributions earmarked for the Gregoire campaign. However, as discussed above, this allegation is not supported by the facts, and there is no evidence that the Gregoire campaign or its treasurer, Phil Lloyd, accepted contributions in excess of the allowable limits, nor that EMILY's List made contributions in excess of allowable limits.

After a careful review of the alleged violations and relevant facts, we have concluded our investigation and, with the concurrence of the Vice Chair of the Public Disclosure Commission, acting as the Chair's designee, I am dismissing your complaint against the People for Chris Gregoire for Governor Campaign and its treasurer, Phil Lloyd, and EMILY's List.

If you are not satisfied with the dismissal of this complaint, you may seek an appropriate remedy pursuant to RCW 42.17.400(4), copy enclosed.

Sincerely,

A handwritten signature in black ink that reads "Vicki Rippie". The signature is fluid and cursive, with a large loop at the end of the last name.

Vicki Rippie  
Executive Director

c: People for Chris Gregoire for Governor Campaign  
Phil Lloyd, Treasurer  
EMILY's List

Enclosure

### **Statutes and Administrative Rules**

**RCW 42.17.020 (14)(b)(v)** states "Contribution" does not include an internal political communication primarily limited to the ...contributors to a ...political committee.

**RCW 42.17.020 (25) (a)** defines "intermediary" as an individual who transmits a contribution to a candidate or committee from another person unless the contribution is from the individual's employer, immediate family ...or an association to which the individual belongs.

**RCW 42.17.135** requires that a political committee receiving a contribution earmarked for the benefit of another candidate or political committee to report the contribution as required.

**RCW 42.17.640(1)** sets contribution limits for state office candidates and sets standards for acceptance of contributions for the primary and general elections. The limit for the 2004 primary election for a Statewide Executive candidate is \$1,350<sup>1</sup>.

**RCW 42.17.670** states that all contributions made by a person or entity, either directly or indirectly, to a candidate... are considered to be contributions from that person or entity to the candidate... as are contributions that are in any way earmarked or otherwise directed through an intermediary or conduit to the candidate.

**RCW 42.17.730** states that a person, other than an individual, may not be an intermediary or an agent for a contribution. In addition, an individual may not make a contribution on behalf of another person or entity, or while acting as the intermediary or agent of another person or entity, without disclosing to the recipient of the contribution both his or her full name, street address, occupation, name of employer, if any, or place of business if self-employed, and the same information for each contributor for whom the individual serves as intermediary or agent.

**WAC 390-16-240** defines earmarked contributions...means any contribution given to an intermediary or conduit, either a political committee, candidate or third party, with a designation, instruction, or encumbrance, whether direct or indirect, express or implied, oral or written, which is intended to result in or which does result in all or any part of the contribution being made to or for the promotion of a certain candidate, state official, or ballot proposition.

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<sup>1</sup> Adjusted for inflation from \$1,250 by amending WAC 390-05-400, effective January 1, 2004.